UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Criminal No. 10-91(JNE)

UNITED STATES OF AMERICA, Plaintiff, v. CHRISTI MICHELE ROWAN, Defendant.	**POSITION OF THE UNITED STATES WITH RESPECT TO SENTENCING**

The United States of America, by and through its undersigned attorneys, hereby submits its position with respect to sentencing in the above-captioned case.

The United States has reviewed the Presentence Investigation Report (PSR) prepared in this case and adopts the findings of the report, with one exception as to the defendant's reported employment and income, as explained below. The United States respectfully requests that this Court sentence Christi Rowan to six months imprisonment, the top of the Sentencing Guidelines range of 0-6 months set forth in the PSR and agreed to by the parties.

STATEMENT OF FACTS

A. Bank Fraud and Bankruptcy Fraud

The two counts to which defendant Rowan has pled reveal her participation and involvement in a wide-ranging bankruptcy fraud scheme orchestrated by Dennis Hecker.[1] In April 2009, Hecker was preparing for his eventual bankruptcy filing, which occurred in June 2009. Despite his looming bankruptcy, Hecker wanted a new Range Rover, having totaled his previous Range Rover in a car crash the previous December. He requested that Rowan purchase the car in her name, so that he could drive the vehicle without having to list it as an asset in bankruptcy court. Rowan, however, was concerned about qualifying for a loan for such a vehicle. Thus, in April 2009, she falsified a W-2 form for submission to the lender, claiming she earned $189,500 in 2008. Her true W-2 income for 2008 was approximately $72,000. (PSR ¶7). On the loan application, she claimed she was employed as an attorney, when in fact she was employed as an account executive for Gannett Company, and was not an attorney. Endura Financial Federal Credit Union financed the loan in reliance on these misrepresentations and falsified documents.

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[1] Hecker pled guilty to Bankruptcy Fraud and is awaiting sentencing. United States v. Hecker, Case No. 10-cr-32(1)(JNE).

After Hecker's bankruptcy filing, Rowan testified under oath in a U.S. Bankruptcy Rule 2004 examination. (PSR ¶9). During her testimony, she lied again about her income, falsely stating that she made approximately $150,000 in income in 2008, rather than the $72,000 reflected on her W-2. As noted in the PSR, she also falsely testified in the 2004 examination that she attended college at Drake University in Des Moines. School records reflect she was never enrolled at Drake. (PSR ¶10).

B. Additional Conduct Reflecting a Pattern of Deception

1. Pre-Plea Conduct

Lies to State Probation Officer, 2000. The PSR notes additional conduct by Rowan that reflects a long-standing and wide-ranging pattern of deception. In 2000, after being convicted of theft in Arizona for embezzling money from her employer, she requested of her Arizona probation officer that she move to Minnesota. The officer reported that Rowan stated her "employer was transferring" her. The officer then spoke to her employer and learned that the statement was false. Rowan also told the officer, in support of her request to move to Minnesota, that her fiancé was a pilot for Northwest Airlines. In fact, he was not a pilot, but a recent aviation graduate who wanted to work at Northwest Airlines. The state probation officer concluded accurately, "It appears the defendant manipulates the truth to her advantage." (PSR ¶32).

Deception Regarding Hecker's Ex-Girlfriends. The PSR notes that Rowan's Conditions of Release in this case include a no-contact order with two of Hecker's ex-girlfriends. (PSR ¶3). This order was put in place because as to one of Hecker's ex-girlfriends, Rowan created a fake Facebook page in the woman's name, and posted a semi-nude photograph of her on the Internet, along with comments suggesting the woman was soliciting sexual activity. Rowan also posted the woman's actual address and phone number. Law enforcement discovered the fake Facebook page and it was removed from the Internet, but not until after the victim received frightening phone calls from those who had viewed it.

As to the second ex-girlfriend, Rowan emailed her landlord, pretending to be the woman's "friend," falsely informing the landlord that the woman intended to move out of her apartment. Rowan then requested access to her "friend's" apartment, supposedly so she could view the apartment as a potential tenant. Rowan never actually gained access to the apartment.

IRS issues. The defendant provided false information on her tax returns for at least the year 2006, when she overstated her income and submitted a false W-2 form with her return. As a result of this false information, Rowan received a larger refund than that to which she was entitled. In her plea agreement, she agreed to cooperate with the IRS to resolve the amounts owed to the United States. (Plea Agreement, ¶12).

2. Post-Plea Conduct

False Information to U.S. Probation Officer, 2010. The PSR sets forth instances of misrepresentation to the United States Probation Officer assigned to this case. The defendant told the Probation Officer that she made every payment on the Range Rover; the lender stated that was false. (PSR ¶¶17-18). The defendant also stated that "she has been employed by Dennis Hecker," earning $120,000 per year, from August 2008 to the present, assisting

Hecker with "media, advertising, press releases, emails, and legal matters." (PSR ¶51). This statement is false. Neither the defendant's self-reported monthly cash flow (PSR ¶66) nor the defendant's tax-filing history (PSR ¶58) corroborates any such assertion. In the Hecker case, the government was in possession of several thousand documents from the files of the Hecker companies, as well as a vast amount of electronic data from the Hecker company computers. None of this evidence referenced any employment of Rowan from 2008 forward for assistance with "media, advertising, press releases, emails, and legal matters." (PSR ¶51).

Unemployment Claim. After her guilty plea, Rowan filed for unemployment benefits, claiming she was an independent contractor for one of Hecker's companies. The State of Minnesota had no records of her alleged employment or contractor status, and thus her claim was denied. Again, the government's evidence indicates the claim was false.

Banking Activity. The United States received information that on May 27, 2010, after her guilty plea in this case, Rowan deposited a check into a TCF bank account in the amount of $10,000, which appeared to be from a Hecker IRA account. On June 3, 2010, the check was returned by the bank as a "stop payment." When TCF investigated, it learned that Rowan herself had stopped payment on the check, stating that she was going to have the money wire transferred instead. A wire transfer never occurred. Nonetheless, Rowan wrote checks on the account, causing a loss to TCF. The matter was investigated by the Minnetonka Police Department, and has not been charged because of the pending federal case against Rowan.

DISCUSSION

The applicable guideline range set forth in the PSR is 0 to 6 months imprisonment, the same range set forth in the Plea Agreement.[2] This guideline range is largely driven by the small loss amount to Endura Financial. (PSR ¶23). But the crimes committed by this defendant were in no way small—-she blatantly created false documents, lied to a lender, and lied under oath, all to help further a large bankruptcy fraud scheme. And yet her conduct does not stop there: She has repeatedly deceived others to further her own goals——by lying to a state probation officer in 2000 in order to move to Minnesota; by creating a fake Facebook page and posting a compromising photo and personal information to seek revenge on a former Hecker girlfriend; by lying to a landlord to seek access to another ex-girlfriend's residence; by falsifying her tax returns; and by providing inaccurate information to the U.S. Probation Officer in this case.

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[2]Based on the information and arguments set forth in this pleading, the government could argue that the defendant is not entitled to a reduction in the base offense level for acceptance of responsibility. A two-level increase in the Guidelines level would not, however, change the range of 0-6 months. The potential for such an argument, however, makes the six-month sentence the government is requesting eminently reasonable.

The Plea Agreement in this case also contains a cooperation clause. (Plea Agreement ¶11). This provision was a part of the plea negotiation; it did not contemplate a motion by the United States under Sentencing Guidelines Section 5K1.1. In the view of the government, however, Rowan's "cooperation" has been extremely limited, and the government believes that Rowan did not give truthful information in her interviews with law enforcement given as part of the cooperation.

Nor is the Court faced in this case with a first-time offender; the defendant has a felony conviction for theft, after embezzling from an employer. Rowan's deceptive and illegal conduct has been blatant and repetitive; her Arizona probation officer's conclusion that she "manipulates the truth to her advantage" certainly forecast her conduct in this case.

A sentence of six months reflects the nature and circumstances of the offense and the history and characteristics of the defendant, for whom deception appears to have become a way of life. 18 U.S.C. § 3553(a). Moreover, a sentence of six months is sufficient, but not greater than necessary "to reflect the seriousness of the offense, to promote respect for the law, . . . to provide just punishment for the offense . . . [and] to afford adequate deterrence to criminal conduct . . . ." 18 U.S.C. § 3553(a). A sentence at the top of the Guidelines range sends a message that those who are involved in the bankruptcy process must abide by the rules of that process. Participation in a bankruptcy fraud scheme——even as one who aids and abets the debtor——is a serious undertaking, and should have serious consequences.

CONCLUSION

For the reasons set forth above, the United States respectfully requests this Court to sentence the defendant to six months imprisonment.

Dated: January 28, 2011

Respectfully submitted,

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s/Nancy E. Brasel

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